THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.7854 OF 2006

ORAL ORDER:

This Writ Petition is filed declaring the action of the respondents in taking possession of petitioner's house property bearing No.2-2-485/B.C.D situated in Sy.No.1, Amberpet, Hyderabad under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act") as arbitrary and illegal.

From the material on record it appears that the petitioner created an equitable mortgage in favour of the 1st respondent-Bank by depositing the title deed of his immovable property as collateral security for the loan availed by M/s Orbital Aero Space Services. It is not in dispute that the 1st respondent-Bank initiated proceedings under the Act and issued notice under Section 13(4) of the Act on 29.12.2005. In pursuance thereof, when the respondents sought to take possession of the property in question, this writ petition is filed seeking the above relief.

The petitioner primarily contends that since the 1st respondent-Bank has already filed O.S.No.460 of 2002 on the file of the Court of VII Senior Civil Judge, City Civil Court, Hyderabad, for recovery of the amount allegedly due under the loan Account, it is not open to the respondents to invoke the proceedings under the Act.

I do not find any substance in the said contention in the absence of any provision under the Act, which prohibits the respondents to invoke parallel proceedings. That apart, since admittedly notice under Section 13(4) of the Act has already been issued, an alternative remedy of appeal is available under Section 17 of the Act, and if the petitioner is aggrieved, he ought to have preferred an appeal. Without exhausting such an alternative remedy, he cannot maintain the present writ petition.

Accordingly, the writ petition is disposed of granting leave and liberty to the petitioner to work out alternative remedy of appeal as provided under law. However, having regard to the facts and circumstances of the case, respondents are directed to maintain *status quo* obtaining as on today as to the nature and possession of the

property in question, for a period of two weeks from today.

The Writ Petition is accordingly, disposed of. No costs.

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(G. ROHINI, J.)

20th April, 2006.

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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.7854 OF 2006

20th April, 2006.

Between:

Sabhapathy Krishnamurthy Sharma. .. Petitioner.

And

Syndicate Bank, General Manager's Office,

6-3-653, Pioneer House, Somajiguda,

Hyderabad and another. .. Respondents.